IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

WP(C).No. 16117 of 2005(R)

CC.542/2004 of J.M.F.C.,SULTHANBATHERY
CMP.1043/2004 of J.M.F.C.,SULTHANBATHERY

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PETITIONER:

K.N.RAVI, AGED 40 YEARS,
S/O.AYYAPPAN, NHARAKKAT HOUSE,
PALAKAMOOLA, PURAKKADI, KARIAMBADI,
MEENANGADI, WYNAD DISTRICT.

BY ADV. SRI.MANJERI SUNDERRAJ
SRI.B.PREMNATH (E)

RESPONDENTS:

STATE OF KERALA, REP.BY
STATION HOUSE OFFICER, MEENANGADI POLICE STATION,
MEENANGADI, WYNAD DISTRICT, REP. BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY GOVT. PLEADER SRI. S.U. NAZAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

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W.P.C.No. 16117 of 2005 R

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Dated this the 24th day of May, 2007

JUDGMENT

The petitioner has come before this Court with this petition under Article 227 of the Constitution complaining about the improper procedure followed by the learned Magistrate in the disposal of a police case and a private complaint, both in respect of the same incident - the death of the brother of the petitioner on account of alleged medical negligence. Final report has been filed after due investigation by the police. That case has been taken on file as C.C. 542 of 2004. While the investigation into the crime was in progress, a complaint was filed by the wife of the deceased in respect of the same occurrence. The course prescribed under Section 210 Cr.P.C. was followed and the private complaint stood stayed. After filing of the final report no further action appears to have been taken in the private complaint. When the police case is about to be listed for trial, the petitioner has come rushing to this Court complaining about the continued stay of the private complaint and

the omission to follow the procedure prescribed under Section 210 Cr.P.C. after the filing of the final report.

2. Report of the learned Magistrate was called for. The learned Magistrate reports that it was an inadvertent omission not to consolidate the two cases and proceed in accordance with the mandate of Section 210 Cr.P.C. According to the learned Magistrate, though both cases were pending, it was not specifically brought to the notice of the learned Magistrate that they are cases which demand and require further progress under Section 210 Cr.P.C. Having come to know of that fact, the learned Magistrate reports that the needful shall be done.

3. In the light of the report of the learned Magistrate no further relief is sought now, the learned Magistrate having now realised the need to proceed further under Section 210 Cr.P.C.

4. This Writ Petition is hence dismissed, but with the observation that the learned Magistrate must take immediate steps under Section 210 Cr.P.C. to proceed with the two cases.

(R. BASANT)
Judge

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